IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 18495 of 2004(S)

OA.559/2002 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONER:
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1. **UNION OF INDIA, REP. BY THE SECRETARY TO GOVERNMENT OF INDIA, DEPARTMENT OF URBAN DEVELOPMENT, NEW DELHI-110 001.**

2. **THE SECRETARY, DEPARTMENT OF PERSONNEL AND TRAINING, GOVERNMENT OF INDIA, NEW DELHI-110 001.**

3. **THE ADMINISTRATOR, U.T. OF LAKSHADWEEP KAVARATTI.**

BY ADV. SRI.PR.RAMACHANDRA MENON,SC,LAKSHADWEEP

RESPONDENTS:

S. ATTAKOYA, S/O. PUKOYA, EXECUTIVE ENGINEER (CIVIL), (NOW HOLDING THE CHARGE OF SUPERINTENDING ENGINEER) LAKSHADWEEP P.W.D, RESIDING AT SURAMBIYODA HOUSE, KILTAN ISLAND, LAKSHADWEEP.

BY ADV. SRI.M.R.RAJENDRAN NAIR
SRI.HARIRAJ
SMT.REKHA VASUDEVAN
SRI.P.A.KUMARAN
SMT.VINEETHA B.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.18495/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER F.NO.3/1/468/97/C1 DT.21.4.98 APPOINTING THE RESPONDENT AS EXECUTIVE ENGINEER ON ADHOC BASIS.

EXT.P2:- COPY OF THE ORDER NO.25017/2/98/EW1 DT.15.1.01 ISSUED BY THE MINISTRY DIRECTING TO TERMINATE THE ADHOC APPOINTMENT OF THE RESPONDENT.

EXT.P3:- COPY OF THE ORDER 25017/2/98-EW1 DT.26.3.01 ISSUED BY THE MINISTRY APPOINTING THE RESPONDENT AS EXECUTIVE ENGINEER ON REGULAR BASIS.

EXT.P4:- COPY OF THE ORDER 25015/2/98-EW1 DT. 1.7.02 ISSUED BY THE MINISTRY REJECTING THE CLAIM OF THE RESPONDENT TO COUNT THE ADHOC SERVICE AS REGULAR/QUALIFYING SERVICE FOR PROMOTION.

EXT.P5:- COPY OF THE OA.559/02 (WITHOUT ANNEXURES) PREFERRED BY THE RESPONDENT BEFORE THE CAT ERNAKULAM.

EXT.P6:- COPY OF THE REPLY STATEMENT FILED BY THE LAKSHADWEEP ADMINISTRATION BEFORE THE CAT ERNAKULAM IN OA. 559/02.

EXT.P7:- COPY OF THE FINAL ORDER DT.02/06/03 PASSED BY THE CAT, ERNAKULAM IN OA. 559/02.

EXT.P8:- COPY OF THE SCHEDULE TO THE LAKSHADWEEP ADMINISTRATION (PUBLIC WORKS DEPARTMENT) SUPERINTENDING ENGINEER (CIVIL RECRUITMENT RULES, 1991.

EXT.R1(a):- COPY OF THE ORDER NO.E.22/1249/84-B2 DT.14.10.89 OF THE 3RD PETITIONER.

EXT.R1(b):- COPY OF THE ORDER F.NO.25017/1/95-EW1 DT.12.10.95 ISSUED BY THE 1ST PETITIONER.

EXT.R1(c):- COPY OF THE ORDER DT.22.12.95, IN OA. 1464/95 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.

EXT.R1(d):- COPY OF THE REPRESENTATION DT.18.8.97 OF THE RESPONDENT.

EXT.PR1(e):- COPY OF THE REPRESENTATION DT.29.8.97 OF THE RESPONDENT.

EXT.R1(f):- COPY OF THE LIST OF ELIGIBLE OFFICERS IN THE GRADE OF ASSISTANT ENGINEER CIVIL, FOR THE YEAR 1997.

EXT.R1(g):- COPY OF THE PROVISIONAL SENIORITY LIST OF ASSISTANT ENGINEERS PUBLISHED BY CIRCULAR F.NO.E8/1687/84-B2(2) DT.7.11.1997.

EXT.R1(h):- COPY OF THE ORDER DT.20.11.2000 IN OA.1007/2000 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.

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EXT.R1(i):- COPY OF THE LETTER NO.3/9/01 C1/1697/DT./14.12.01 BY THE ADMINISTRATOR.

EXT.R1(j):- COPY OF THE ORDER NO.3/9/01 C1/9810 DT.10.6.02, OF THE 1ST PETITIONER HEREIN.

EXT.R1(k):- COPY OF THE ORDER DT.1.3.02 IN OA. 192/01,. OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.

EXT.R1(l):- COPY OF THE REPRESENTATION DT.12.3.02 OF THE RESPONDENT.

EXT.R1(m):- ORDER NO.1/05 DT.24.1.05, ISSUED BY DY.DIRECTOR, CPWD.

/TRUE COPY/

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J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C)No.18495 OF 2004

Dated 6th March, 2007

JUDGMENT

Koshy,J.

The respondent approached the Central Administrative Tribunal regarding his non-promotion as a Superintending Engineer with effect from 6.5.2003. Contention of the petitioners was that even though he was educationally qualified, he had no prescribed service of five years as an Executive Engineer which is the minimum service requirement. But, it is admitted by the petitioners that he was working for long time as an ad-hoc Executive Engineer. If his service as an ad-hoc Executive Engineer is also taken into account, he will be qualified on 6.5.2003 itself. The Tribunal considered these aspects and directed as follows:

> "In the light of what is stated above, the application is allowed in part, the impugned order Annexure A-1 to the extent it denies the applicant the benefit of seniority for the period of his adhoc officiation as Executive Engineer is set aside and we direct the respondents to consider the case of the applicant for promotion to the post of Superintending Engineer now, against the existing vacancy as he has 5 years of regular service as on 6.05.2003. The respondents are directed to complete the above exercise and issue appropriate order within a period of three

months from the date of receipt of a copy of this order."

It is also submitted by the respondent that subsequently he was promoted as Superintending Engineer and he is continuing as Superintending Engineer. Since the respondent was working, even though on adhoc basis, and if that service is taken into account, he had a service of Executive Engineer for five years and he has educationally qualified. We see no reason to interfere with Ext.P7 order. In any event, there is no patent illegality or perverse finding in the order of the Tribunal. Time limit for complying with the order of the Central Administrative Tribunal is extended by three months from today.

The writ petition is dismissed.

J.B.KOSHY
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

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